

IN THE UNITED STATES ARMY
FIRST JUDICIAL CIRCUIT

UNITED STATES

v.

MANNING, Bradley E., PFC

U.S. Army, (b) (6)

Headquarters and Headquarters Company, U.S.

Army Garrison, Joint Base Myer-Henderson Hall,

Fort Myer, VA 22211

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**DEFENSE MOTION FOR
APPROPRIATE RELIEF FOR
PUBLICITY ORDER TO
PROSPECTIVE COURT-
MARTIAL MEMBER**

DATED: 20 February 2012

RELIEF SOUGHT

1. The Defense moves this Court, pursuant to R.C.M. 906, for an order to prospective court-martial members prohibiting them from reading or viewing media accounts pertaining to this case.

BURDEN OF PERSUASION AND BURDEN OF PROOF

2. As the moving party, the Defense has the burden of persuasion. R.C.M. 905(c)(2). The burden of proof is by a preponderance of the evidence. R.C.M. 905(c)(1).

FACTS

3. PFC Manning is charged with five specifications of violating a lawful general regulation, one specification of aiding the enemy, one specification of disorders and neglects to the prejudice of good order and discipline and service discrediting, eight specifications of communicating classified information, five specifications of stealing or knowingly converting Government property, and two specifications of knowingly exceeding authorized access to a Government computer, in violation of Articles 92, 104, and 134, Uniform Code of Military Justice (UCMJ) 10 U.S.C. §§ 892, 904, 934 (2010).

4. The original charges were preferred on 5 July 2010. Those charges were dismissed by the convening authority on 18 March 2011. The current charges were preferred on 1 March 2011. On 16 December through 22 December 2011, these charges were investigated by an Article 32 Investigating Officer. The charges were referred without special instructions to a general court-martial on 3 February 2012.

5. The media interest in this case has been extensive. It is likely that the media's interest will only increase as we get closer to trial.

WITNESSES/EVIDENCE

6. The Defense does not request any witnesses be produced in support of this motion. The Defense requests the Court consider that attached Public Affair's Office summary of media interest during the Article 32 hearing. *See* Attachment A.

LEGAL AUTHORITY AND ARGUMENT

7. The Defense moves pursuant to Rule for Court-Martial 906 for an order to prospective court-martial members requiring them to refrain from reading or viewing media accounts pertaining to this case. Though the Defense has not been able to find any military case law on this issue, the Defense believes such an order is within the military judge's inherent authority to ensure a fair trial in this case.

8. The Defense has drafted a proposed Protective Order. The proposed Protective Order is attached to this motion.

9. If the Defense motion is opposed by the Government, then the Defense requests oral argument.

CONCLUSION

10. Based on the above, the Defense requests that the Court issue the attached Pretrial Publicity Order to potential court-martial members.

Respectfully submitted,

DAVID EDWARD COOMBS
Civilian Defense Counsel